

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 536
Committee Substitute Favorable 5/1/19
PROPOSED COMMITTEE SUBSTITUTE H536-CSSAf-49 [v.10]
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Short Title: ABC Omnibus Regulatory Reform.

(Public)

Sponsors:

Referred to:

April 3, 2019

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS REVISIONS TO THE ALCOHOLIC BEVERAGE CONTROL
LAWS OF THIS STATE.

The General Assembly of North Carolina enacts:

**PART I. SELF-DISTRIBUTING BREWERIES AND MALT BEVERAGES
WHOLESALE/REVISE LAW GOVERNING PRIVATE LABEL SALES**

SECTION 1. G.S. 18B-1303(b) reads as rewritten:

"(b) No Discrimination. – A wholesaler shall service all retail permit holders within ~~his~~
the wholesaler's designated territory without discrimination and shall make a good faith effort to
make available to each retail permit holder in the territory each brand of malt beverage which the
wholesaler has been authorized to distribute in that area. The provisions of this subsection shall
not apply to retail permit holder private label brands, which, at the retail permit holder's direction,
may be sold either exclusively to the retailer that owns the brand name or to all retail permit
holders within each territory without discrimination. For purposes of this subsection, the term
"retail permit holder private label brand" means a malt beverage product that is labeled with a
brand name owned by a retailer."

PART II. CLARIFY CONTRACT BREWING LAW

SECTION 2.(a) G.S. 18B-1104(a)(6a) reads as rewritten:

"(6a) Receive, in closed containers, and sell at the brewery, malt beverages
produced inside or outside North Carolina under contract with a contract
brewery. The contract brewery that manufactures the malt beverages shall be
responsible for all aspects associated with manufacturing the product,
~~including maintaining appropriate records, obtaining label approval in its own~~
~~name, and remitting the appropriate taxes. subject to the rules of the~~
Commission and the Department of Revenue. The brewery, not the contract
brewery, shall be responsible for registering the contracted product with the
Commission, submitting the appropriate reports regarding the malt beverages,
and remitting the appropriate taxes if required by those rules. The contract
malt beverages may be sold also at affiliated retail outlets of the brewery
physically located on or adjacent to the brewery. Any malt beverages received
from a contract brewery under this subdivision shall be made available for
sale by the brewery to wholesalers for distribution to retailers, without
discrimination, in the same manner as if the malt beverages were being



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imported by the brewery. Contract brewing is authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to subdivision (8) of this subsection where either brewery would not otherwise qualify for a permit, and the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b)."

SECTION 2.(b) This section becomes effective July 1, 2019, and applies to taxes collected on or after that date.

PART III. ALLOW MALT BEVERAGE TASTINGS AT FARMERS MARKETS

SECTION 3. G.S. 18B-1114.5(a) reads as rewritten:

"(a) Authorization. – The holder of a brewery permit, a malt beverages importer permit, a brewing, distillation, and fermentation course authorization, or a nonresident malt beverage vendor permit may obtain a malt beverage special event permit allowing the permittee to give free tastings of its malt beverages; to sell branded merchandise such as glassware, cups, signs, t-shirts, hats, and other apparel; and to sell its malt beverages by the glass or in closed containers at trade shows, conventions, shopping malls, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, farmers markets, balloon races, local fund-raisers, and other similar events approved by the Commission. Except for a brewery operating under the provisions of G.S. 18B-1104(a)(8), all malt beverages sampled or sold pursuant to this section must be purchased from a licensed malt beverages wholesaler."

PART IV. ALLOW TRANSFERS OF MALT BEVERAGES BETWEEN PERMITTEES UNDER COMMON OWNERSHIP OR CONTROL

SECTION 4. G.S. 18B-1001 reads as rewritten:

"§ 18B-1001. Kinds of ABC permits; places eligible.

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

- (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer malt beverages, not more than four times per calendar year, to another on-premises malt beverage permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of malt beverages by on-premises malt beverage permittees, purchases of malt beverages by a retail permittee from another retail permittee for the purpose of resale, and sales of malt beverages by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of malt beverages may be transferred only if both the transferor and transferee are located within the territory designated between the brewery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. It also authorizes the holder of the permit to

ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

...

- (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit authorizes (i) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit also authorizes the permittee to transfer malt beverages, not more than four times per calendar year, to another off-premises malt beverage permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of malt beverages by off-premises malt beverage permittees, purchases of malt beverages by a retail permittee from another retail permittee for the purpose of resale, and sales of malt beverages by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of malt beverages may be transferred only if both the transferor and transferee are located within the territory designated between the brewery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The permit may be issued for any of the following:

...."

PART V. REVISE LAW AUTHORIZING DISTILLERS TO SELL SPIRITUOUS LIQUOR DISTILLED BY THE DISTILLER FOR CONSUMPTION OFF THE PREMISES

SECTION 5.(a) G.S. 18B-1105(a)(4) reads as rewritten:

- "(4) Sell spirituous liquor distilled at the distillery in closed containers to visitors ~~who tour the distillery~~ for consumption off the premises. Sales under this subdivision are allowed only in a county where the establishment of a county or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor sold under this subdivision shall (i) be listed as a code item for sale in the State, (ii) be sold at the price ~~set by the Commission for the code item pursuant to G.S. 18B-804(b), that complies with the requirement set forth in G.S. 18B-804(b1),~~ and (iii) have affixed to its bottle ~~a sticker that bears the words "North Carolina Distillery Tour Commemorative Spirit" in addition to any other labeling requirements set by law. Consumers purchasing spirituous liquor under this subdivision are limited to purchasing, and the selling distillery is limited to selling to each consumer, no more than five bottles of spirituous liquor per 12 month period. The distillery shall use a commonly adopted standard point of sale system to maintain searchable electronic records captured at the point of sale, to include the purchaser's name, drivers license number, and date of birth for at least 12 months from the date of~~

~~purchase. The Commission shall adopt rules regulating the retail sale of spirituous liquor under this subdivision."~~

SECTION 5.(b) G.S. 18B-804(b1) reads as rewritten:

"(b1) Price of Spirituous Liquor Sold at Distillery. – When the holder of a distillery permit sells spirituous liquor distilled at the distillery pursuant to ~~G.S. 18B-1105(a)(4)~~, G.S. 18B-1105, the retail price of the spirituous liquor shall be the uniform State price set by subsection (a) of this section. However, the holder of the distillery permit shall not be required to remit the components of the price set forth by subdivisions (2), (3), (5), (6), (6a), (6b), and (7) of subsection (b) of this section."

SECTION 5.(c) G.S. 18B-1116(a) reads as rewritten:

"(a) Prohibitions. – It shall be unlawful for any manufacturer, bottler, or wholesaler of any alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly to:

...

A brewery qualifying under subdivision (7) or (8) of G.S. 18B-1104(a) is not subject to the provisions of this section concerning financial interests in, and lending or giving things of value to, a wholesaler or retailer with respect to the brewery's transactions with the retail business on its premises or other retail locations allowed under G.S. 18B-1104(a)(8). The brewery is subject to the provisions of this subsection, however, with respect to its transactions with all other wholesalers and retailers.

A distillery is not subject to the provisions of this section concerning financial interests in, and lending or giving things of value to, a retailer with respect to the distillery's transactions with the retail business allowed on its premises under G.S. 18B-1105(a)(4). The distillery is subject to the provisions of this subsection, however, with respect to its transactions with all other retailers."

SECTION 5.(d) This section becomes effective July 1, 2019, and applies to sales made on or after that date.

PART VI. MALT BEVERAGES AND WINE/INCREASE DISCOUNT ON PRICE FROM 25% TO 35% OF THE RETAIL PRICE

SECTION 6.(a) Definition. – "Discount Rule" means 14B NCAC 15B .1004 (General Prohibitions) for purposes of this section and its implementation.

SECTION 6.(b) Discount Rule. – Until the effective date of the revised permanent rule that the Alcoholic Beverage Control Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Discount Rule as provided in subsection (c) of this section.

SECTION 6.(c) Implementation. – Notwithstanding any provision of subsection (b) of 14B NCAC 15B .1004 to the contrary, all of the following shall apply:

- (1) A combination of the use of a coupon, a rebate, or a permittee's loyalty card, discount card, or membership card shall not exceed thirty-five percent (35%) of the advertised retail price for the purchase of a malt beverage or wine.
- (2) A coupon or rebate shall not provide a discount exceeding thirty-five percent (35%) of the advertised retail price for the purchase of a malt beverage or wine.
- (3) A loyalty card, discount card, or membership card shall not provide a discount exceeding thirty-five percent (35%) of the advertised retail price for the purchase of a malt beverage or wine.

SECTION 6.(d) Adoption. – The Commission shall adopt rules to amend the Discount Rule consistent with subsection (c) of this section by no later than September 1, 2019. The Commission may adopt temporary rules to comply with the deadline set in this subsection.

Any temporary rules adopted in accordance with this subsection shall remain in effect until permanent rules that replace the temporary rules become effective.

SECTION 6.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

PART VII. CLARIFY DEFINITION OF "PREMISES"

SECTION 7. G.S. 18B-101(12a) reads as rewritten:

"(12a) "Premises" means a fixed permanent establishment, including all areas, whether areas inside or outside the licensed premises, establishment, where the permittee has control of the property through a lease, deed, or other legal process."

PART VIII. AUTHORIZE SALE AND DELIVERY OF MORE THAN ONE DRINK AT A TIME TO A SINGLE PATRON

SECTION 8.(a) Article 10 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1010. Sale and delivery of more than one drink at a time to a single patron.

Except as otherwise provided in this section, the holder of an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or mixed beverages permit issued under G.S. 18B-1001 may sell and deliver more than one alcoholic beverage drink, but not more than two alcoholic beverage drinks, at a time to a single patron for consumption on the premises. This section does not apply to the sale of alcoholic beverages (i) at a stadium, athletic facility, or arena on the campus or property of a public college or university or (ii) during a sports event sponsored by a public college or university."

SECTION 8.(b) This section becomes effective July 1, 2019, and applies to sales made on or after that date.

PART IX. ALLOW SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES AT BINGO GAMES

SECTION 9.(a) G.S. 18B-308 is repealed.

SECTION 9.(b) G.S. 14-309.14(3) is repealed.

SECTION 9.(c) G.S. 18B-112(b)(3) reads as rewritten:

"(3) Article 3. – Sale, Possession, and Consumption, except for ~~G.S. 18B-308 and~~ G.S. 18B-309."

SECTION 9.(d) This section becomes effective July 1, 2019, and applies to offenses committed on or after that date.

PART X. FOOD AND LODGING FACILITY SANITATION REGULATIONS/EXEMPT BREWERIES NOT ENGAGED IN THE PREPARATION OF FOOD

SECTION 10.(a) G.S. 130A-247 is amended by adding a new subdivision to read:

"(10) "Brewery" means an establishment license under G.S. 18B-1104 that is not engaged in the preparation of food on the premises. For purposes of this subdivision, the term "food" does not include beverages."

SECTION 10.(b) G.S. 130A-248(a), as amended by subsection (d) of Section 7 of this act, reads as rewritten:

"(a) For the protection of the public health, the Commission shall adopt rules governing the sanitation of establishments that prepare or serve drink or food for pay and establishments that prepare and sell meat food products or poultry products. However, any establishment that prepares or serves food or drink to the public, regardless of pay, shall be subject to the provisions of this Article if the establishment that prepares or serves food or drink holds an ABC permit, as defined in G.S. 18B-101, meets any of the definitions in G.S. 18B-1000, and does not meet the

definition of a bar as provided in ~~G.S. 130A-247(9)~~ G.S. 130A-247(9), a brewery as provided in G.S. 130A-247(10), or a private club as provided in G.S. 130A-247(2)."

SECTION 10.(c) G.S. 130A-250 reads as rewritten:

"§ 130A-250. Exemptions.

The following shall be exempt from this Part:

...

(17) A brewery as defined in G.S. 130A-247(10)."

SECTION 10.(d) Penalties imposed and fees charged before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those penalties and fees.

PART XI. RESTRICT CREATION OF NEW ABC SYSTEMS

SECTION 11.(a) G.S. 18B-600 reads as rewritten:

"§ 18B-600. Places eligible to hold alcoholic beverage elections.

...

(a1) ABC Store Elections Requiring Merger. – A jurisdiction located in a county where an ABC board is already in operation may hold an ABC store election only if all of the following criteria are met:

(1) The jurisdiction has negotiated the details of the merger required by G.S. 18B-700(c1) if the establishment of ABC stores is approved.

(2) The details of the planned merger, including the distribution of profits, have been determined in accordance with G.S. 18B-703, and have been made available to all registered voters in the jurisdiction where the ABC store election is to be held.

...

(d) City ABC Store Elections. – A city may hold an ABC store election only if all of the following criteria are met:

(1) The city has at least 1,000 registered voters; and ~~voters; and~~ voters.

(2) The county in which the city is located does not operate ABC stores.

(3) At least one other city in the same county operates an ABC store.

...."

SECTION 11.(b) G.S. 18B-700 is amended by adding a new subsection to read:

(c1) Limit on Creation of New Boards. – Notwithstanding any provision of law to the contrary, no new local board may be created in any county where a local board operates an ABC store. If a jurisdiction holds an ABC store election under G.S. 18B-602(g), the establishment of ABC stores is approved, and the jurisdiction is located in a county where a local board is already in operation, the jurisdiction that held the election shall enter into an agreement with an existing local board to create a merged local board in accordance with G.S. 18B-703. Nothing in this subsection shall be construed as prohibiting a local board from serving multiple cities, counties, or cities and counties."

SECTION 11.(c) G.S. 18B-703(e) reads as rewritten:

(e) Dissolution. – With-Except as otherwise provided in this subsection, with the approval of the Commission, the cities or counties that have merged their ABC systems may dissolve the merged operation at any time and resume their prior separate operations. A city or county that has merged with another local board pursuant to the requirements of G.S. 18B-700(c1) may only dissolve a merged operation if one of the following applies:

(1) The city or county is merging with a different local board.

(2) The city or county is ceasing operation of all ABC stores within the city or county."

SECTION 1.(d) This section becomes effective July 1, 2019, and applies to elections held on or after that date.

PART XII. ABC STORES/ALLOW IN-STORE SPIRITUOUS LIQUOR TASTINGS**SECTION 12.(a)** G.S. 18B-1114.7 reads as rewritten:**"§ 18B-1114.7. Authorization of spirituous liquor special event permit.**

(a) Authorization. – The holder of a supplier representative permit, brokerage representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at ABC stores where the local board has approved the tasting, trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission.

(b) General Limitations. – ~~Any~~ Except as otherwise provided in subsection (c) of this section, any consumer tasting is subject to the following limitations:

- (1) The permit holder or the permit holder's authorized agent shall conduct the consumer tasting and the permit holder shall be solely responsible for any violations of this Chapter occurring in connection with the consumer tasting.
- (2) The spirituous liquor shall be poured only by either (i) the permit holder conducting the consumer tasting or (ii) an employee or authorized agent of the permit holder conducting the consumer tasting who is at least 21 years of age.
- (3) Each consumer shall be limited to one ~~0.25 ounce~~ 0.25 ounces tasting sample containing 0.25 ounces of any product made available for sampling at the consumer tasting, and the total amount of the tasting samples offered to and consumed by each consumer shall not exceed 1.0 ounce of spirituous liquor in any calendar day.
- (4) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer who is visibly intoxicated.
- (5) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer under the legal age for consuming spirituous liquor. The person pouring the spirituous liquor shall be responsible for verifying the age of the consumer being served by checking the identification of the consumer.
- (6) The permit holder shall not charge a consumer for any tasting sample.
- ~~(7) A venue allowing tastings shall designate a tasting area within the venue that enables the permit holder to ensure that the consumer tasting is being conducted in compliance with this section. Consumers shall only be allowed to consume tasting samples within the designated tasting area.~~
- (8) A consumer tasting shall not be allowed unless the venue is located in a jurisdiction that has approved the sale of mixed beverages.
- (9) The permit holder may provide point-of-sale advertising materials and advertising specialties and may sell branded merchandise such as glassware, cups, signs, t-shirts, hats, and other apparel to consumers at the consumer tasting.
- (10) The permit holder shall maintain for a period of at least one year a record of each consumer tasting conducted. The record shall include the date of the consumer tasting, the time of the consumer tasting, an identification of the venue at which the consumer tasting was held, an identification of the spirituous liquor that was provided for tasting at the consumer tasting, and the name of any person who poured spirituous liquor at the consumer tasting. The permit holder shall allow the ABC Commission to inspect those records at any time.

- (c) Additional Limitations on Tastings in ABC Stores. – Consumer tastings conducted in an ABC store shall have the following additional limitations:
- (1) The spirituous liquor used in the consumer tasting event shall be purchased by the permit holder from any ABC store at the price set by the Commission. The permit holder shall remove from the premises any remaining spirituous liquor used in the consumer tasting event at the conclusion of the consumer tasting event.
 - (2) A local board may allow consumer tasting events to be conducted only between the hours of 1:00 p.m. and 7:00 p.m. on any day the ABC store where the consumer tasting event is being held is authorized by law to sell spirituous liquor. No consumer tasting event shall be conducted for more than three hours.
 - (3) The local board shall limit the consumer tasting events allowed per ABC store as follows:
 - a. No more than three consumer tasting events may be held per calendar week.
 - b. No more than two different permit holders may conduct a consumer tasting event at the same time.
 - (4) Notwithstanding subdivision (3) of subsection (b) of this section, the total amount of the tasting samples offered to and consumed by each consumer at a consumer tasting event shall not exceed one-half ounce of spirituous liquor in any calendar day.
 - (5) The permit holder conducting the event may provide point-of-sale advertising materials and advertising specialties to consumers at the consumer tasting event, but shall not conduct any sales of any branded merchandise or apparel to consumers at the consumer tasting event.
 - (6) The local board may post notice of the consumer tasting event at the local board's administrative offices and at any of the ABC stores within the local board's system, and may provide notice of the consumer tasting event to any mixed beverage permittee that purchases spirituous liquor from an ABC store within the local board's system. Except as permitted by this subdivision, no local board or permit holder shall advertise or promote the consumer tasting event to the public or cause any person to do so on its behalf.
 - (7) The permit holder shall provide written notice of the consumer tasting event to the ABC Commission at least 48 hours before the consumer tasting event. The notice shall include all of the following:
 - a. The date and time of the consumer tasting event.
 - b. The ABC store at which the consumer tasting event will be conducted.
 - c. The spirituous liquor that will be provided for tasting at the consumer tasting event.
 - (8) The local board shall establish and implement a policy whereby distillery permit holders are given the right of first refusal for a certain number, as determined by the Commission, of the dates and times made available in a month by the local board for holding tastings authorized under this section. Any policy established under this subdivision shall set forth the date for each month by which a distillery permit holder must exercise the right of first refusal before the reserved dates and times are made available to all eligible spirituous liquor special event permit holders.
 - (9) Any tasting conducted in an ABC store shall be the sole responsibility of the permit holder. No employee of a local board may participate in or conduct a tasting in an ABC store.

(10) Any additional conditions imposed by the local board. Any additional conditions shall be in writing, and the local board shall post notice of the additional conditions at the local board's administrative offices and provide a copy of that notice to any permit holder upon request.

(11) Except as otherwise provided in this section, a permit holder conducting a consumer tasting event pursuant to this section shall not provide any consideration to the local board, its board members, or its employees for any purpose related to the consumer tasting event. A consumer tasting event shall not be used by permit holders for unlawful inducements to a local board."

SECTION 12.(b) G.S. 18B-301(f)(1) reads as rewritten:

"(1) Any person to consume fortified wine, spirituous liquor, or mixed beverages or to offer such beverages to another person at any of the following places:

- a. ~~On~~ Unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted, on the premises of an ABC store.
- b. Upon any property used or occupied by a local board.
- c. On any public road, street, highway, or sidewalk, unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted."

PART XIII. ALLOW ELECTRONIC PAYMENT FOR SPIRITUOUS LIQUOR PURCHASED BY MIXED BEVERAGES PERMITTEES

SECTION 13.(a) G.S. 18B-404 is amended by adding a new subsection to read:

"(e) Electronic Payment. – A local board shall accept electronic payments for any spirituous liquor purchased by a mixed beverages permittee. A local board may not charge a fee for accepting electronic payments under this subsection. For purposes of this subsection, the term "electronic payment" means payment by debit card or by electronic funds transfer as defined in G.S. 105-228.90, but does not include payment by charge card or credit card."

SECTION 13.(b) This section becomes effective October 1, 2019, and applies to sales made on or after that date.

PART XIV. ABC COMMISSION/REQUIRE ACCEPTANCE OF PAYMENTS AND FORMS ELECTRONICALLY

SECTION 14.(a) Article 9 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-907. Allow electronic submission of payments and forms.

(a) Forms. – The Commission shall make all forms required by the Commission to apply for and receive a permit available on the Commission's Web site, and the Commission shall, to the extent practicable, allow for the electronic submission of these forms. Any form required by the Commission to apply for and receive a permit that requires a signature may be submitted with an electronic signature in accordance with Article 40 of Chapter 66 of the General Statutes.

(b) Payments. – The Commission shall accept electronic payments for any fee required under this Chapter to receive a permit. For purposes of this subsection, the term "electronic payment" means payment by charge card, credit card, debit card, or by electronic funds transfer as defined in G.S. 105-228.90.

(c) Fee. – The Commission may charge a fee to be used to cover costs incurred by the Commission in processing forms electronically and accepting payments electronically. The fee authorized under this subsection may not exceed five dollars (\$5.00)."

SECTION 14.(b) This section becomes effective July 1, 2019, and applies to permits applied for on or after that date.

PART XV. CREATION OF COMMON AREA ENTERTAINMENT PERMIT

SECTION 15.(a) G.S. 18B-1000 reads as rewritten:

1 **"§ 18B-1000. Definitions concerning establishments.**

2 The following requirements and definitions shall apply to this Chapter:

3 ...

4 (4) Hotel. – An establishment substantially engaged in the business of furnishing
5 lodging. A hotel shall have a restaurant either on or closely associated with
6 the premises. The restaurant and hotel need not be owned or operated by the
7 same person.

8 (4e) Multi-tenant establishment. – A building or structure, or multiple buildings
9 and structures on the same property and under common ownership or control,
10 that contain or contains multiple businesses that sell food, goods, services, or
11 a combination of food, goods, and services, and that are connected by common
12 areas. A shopping mall is not a multi-tenant establishment if more than fifty
13 percent (50%) of the shopping mall's square footage is enclosed and
14 conditioned.

15"

16 **SECTION 15.(b)** G.S. 18B-1001 is amended by adding a new subdivision to read:

17 "(21) Common Area Entertainment Permit. – A permit under this subdivision may
18 be issued to the owner of a multi-tenant establishment that has at least two
19 tenants that hold a permit issued under subdivision (1), (3), (5), or (10) of this
20 section. A common area entertainment permit authorizes a customer of a
21 multi-tenant establishment tenant holding a permit issued under subdivision
22 (1), (3), (5), or (10) of this section to exit that licensed premises with an open
23 container of the alcoholic beverage sold by the tenant holding the permit and
24 consume the alcoholic beverage within the confines of any indoor or outdoor
25 common area on the premises of the multi-tenant establishment designated by
26 the owner of the multi-tenant establishment for consumption of alcoholic
27 beverages. Additionally, a permit issued under this subdivision is subject to
28 all of the following conditions:

29 a. The owner of the multi-tenant establishment shall designate the
30 common area in which alcoholic beverages may be consumed.
31 Additionally, the owner of the multi-tenant establishment shall post
32 signs in conspicuous locations on the multi-tenant establishment
33 property indicating which common area is the designated common
34 area. The owner of the multi-tenant establishment shall submit to the
35 Commission for review and approval (i) a plat of the multi-tenant
36 establishment property for a designated outdoor common area with the
37 common area designated for alcohol consumption clearly marked or
38 (ii) a detailed map of the relevant building on the multi-tenant
39 establishment property for a designated indoor common area with the
40 common area designated for alcohol consumption clearly marked. The
41 Commission shall reject any plat or map submitted under this
42 sub-subdivision that does not meet the requirements of this
43 subdivision or any rule adopted by the Commission. The owner of the
44 multi-tenant establishment must submit a plat or map as required under
45 this sub-subdivision for each renewal of the permit issued under this
46 subdivision and at least 10 days prior to making any adjustments to the
47 designated common area.

48 b. Alcoholic beverages sold for consumption in a designated common
49 area shall be dispensed only in a container that clearly identifies the
50 licensed premises from which the beverage was purchased. The

amount of alcoholic beverage dispensed into a container under this sub-subdivision shall not exceed 16 fluid ounces.

c. A customer is not allowed to possess or consume more than one alcoholic beverage at a time while within the designated common area.

d. Alcoholic beverages may only be consumed within the designated common area during the hours in which the alcoholic beverage may be sold under G.S. 18B-1004, and the owner of the multi-tenant establishment may further limit the days and times in which an alcoholic beverage may be consumed in a designated common area. The owner of the multi-tenant establishment shall post signs in conspicuous locations on the multi-tenant establishment property indicating the days and times in which a person may consume an alcoholic beverage in a designated common area.

e. A customer in the designated common area shall dispose of any alcoholic beverage in his or her possession prior to exiting the designated common area. A person is not allowed to exit a designated common area with any alcoholic beverage he or she was consuming within the area.

f. A customer is not allowed to bring and consume alcoholic beverages not purchased from a tenant of the multi-tenant establishment holding an applicable permit.

g. Any additional conditions imposed by the Commission. Any additional conditions imposed by the Commission shall be posted on the Commission's Web site."

SECTION 15.(c) G.S. 18B-902(d) reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

...

(46) Common area entertainment permit – \$750.00."

PART XVI. CREATION OF DELIVERY SERVICE PERMIT

SECTION 16.(a) Article 10 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1001.4. Authorization of delivery service permit.

(a) Authorization. – The holder of a delivery service permit, or the permit holder's employee or independent contractor, may deliver malt beverages, unfortified wine, or fortified wine on behalf of a retailer holding a permit issued pursuant to subdivisions (1) through (6) and (16) of G.S. 18B-1001 to a location designated by the purchaser. A delivery service permittee may also facilitate delivery through technology services that connect consumers and licensed retailers through the use of the Internet, mobile applications, and other similar technology.

(b) Training and Payment. – Prior to making any deliveries, each individual delivering alcoholic beverages pursuant to a delivery service permit must successfully complete a course approved by the Commission related to the delivery of alcoholic beverages. Upon receipt of a proposed training program from a holder of a delivery service permit, the Commission shall have 15 business days to approve, deny, or request modifications to the proposed training program. An individual delivering alcoholic beverages pursuant to a delivery service permit shall not handle or possess funds used to purchase an alcoholic beverage that is to be delivered but may facilitate the sales transaction in a manner that does not involve taking possession of funds.

(c) Age of Recipient and Notice. – An individual may only deliver alcoholic beverages pursuant to a delivery service permit to an individual who is at least 21 years of age and who immediately takes actual possession of the alcoholic beverages purchased. A delivery of

alcoholic beverages in a package that obscures the manufacturer's original packaging shall have affixed to the outside of the package a notice in 26-point type or larger stating: "CONTAINS ALCOHOLIC BEVERAGES; AGE VERIFICATION REQUIRED."

(d) Limitations. – A delivery service permittee shall deliver alcoholic beverages only within the time allowed for lawful sales and consumption in the jurisdiction where the delivery is located. No delivery shall be made to any jurisdiction within the State that has not authorized the sale of the purchased alcoholic beverages. A delivery service permittee shall not deliver alcoholic beverages to the premises of another licensed retailer or more than 50 miles from the retailer's licensed premises. Unless the governing body of an institution of higher education has given written authorization to the permittee, a delivery service permittee shall not deliver alcoholic beverages to a residence hall located on the premises of an institution of higher education. Only alcoholic beverages purchased for personal consumption and from a licensed retailer's existing inventory located on the retailer's premises may be delivered pursuant to a delivery service permit.

(e) Scope and Construction. – A delivery service permit is not required for a common carrier lawfully transporting or shipping alcoholic beverages. Nothing in this section shall be construed as exempting the delivery of alcoholic beverages pursuant to a delivery service permit from the requirements set forth in Article 4 of Chapter 18B of the General Statutes. Nothing in this section shall be construed to require a technology services company to obtain a delivery service permit if the company does not employ or contract with delivery drivers, but rather provides software or an application that connects consumers and licensed retailers for the delivery of alcoholic beverages from the licensed retailer."

SECTION 16.(b) G.S. 18B-902(d), as amended by Section 21(c) of this act, reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

...

(47) Delivery service permit – \$400.00."

SECTION 16.(c) The Alcoholic Beverage Control Commission shall begin accepting permit applications and approving training programs no later than September 1, 2019.

SECTION 16.(d) Subsections (a) and (b) of this section become effective December 1, 2019. The remainder of this section is effective when it becomes law.

PART XVII. BREWERY SALES AUTHORIZATION

SECTION 17.(a) G.S. 18B-1104(a) reads as rewritten:

"(a) Authorized Acts. – The holder of a brewery permit may:

...

(7a) ~~In an area where the sale of malt beverages has not been authorized, a brewery that produces agricultural products, including barley, other grains, hops, or fruit, used by the brewery in the manufacture of malt beverages may sell the malt beverages owned by the brewery and approved by the Commission for sale in North Carolina at the brewery for on- or off-premise consumption upon (i) obtaining the appropriate permit under G.S. 18B-1001 and (ii) receiving approval from the governing body of the city where the brewery is located or, if the brewery is not located in a city, the governing body of the county where the brewery is located. Approval may be granted only pursuant to a resolution of the governing body adopted at a regular meeting. Before adopting a resolution approving the sale of malt beverages under this subdivision, a governing board shall hold a public hearing. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice of the public hearing shall~~

~~be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.~~

(7b) Regardless of the results of any local malt beverage election, sell the malt beverages owned by the brewery at the brewery for on- or off-premise consumption upon obtaining the appropriate permit under G.S. 18B-1001.

...."

SECTION 17.(b) This section becomes effective October 1, 2019.

PART XVIII. ALLOW SPORTS AND ENTERTAINMENT VENUES TO OBTAIN ON-PREMISES FORTIFIED WINE PERMITS AND SPECIAL OCCASION PERMITS

SECTION 18.(a) G.S. 18B-1001 reads as rewritten:

"§ 18B-1001. Kinds of ABC permits; places eligible.

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

...

(5) On-Premises Fortified Wine Permit. – An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. The permit also authorizes the permittee to transfer fortified wine, not more than four times per calendar year, to another on-premises fortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises fortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship fortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

- a. Restaurants.
- b. Hotels.
- c. Private clubs.
- d. Community theatres.
- e. Wineries.
- f. Convention centers.
- g. Sports and entertainment venues.

...

(8) Special Occasion Permit. – A special occasion permit authorizes the host of a reception, party or other special occasion, with the permission of the permittee, to bring fortified wine and spirituous liquor onto the premises of

the business and to serve the same to his guests. The permit may be issued for any of the following:

- a. Restaurants.
- b. Hotels.
- c. Eating establishments.
- d. Private clubs.
- e. Convention centers.
- f. Sports and entertainment venues.

...."

PART XIX. EXEMPT MIXED BEVERAGE PERMITTEES FROM PURCHASE-TRANSPORTATION PERMIT REQUIREMENT FOR SPIRITUOUS LIQUOR

SECTION 19.(a) G.S. 18B-303 reads as rewritten:

"§ 18B-303. Amounts of alcoholic beverages that may be purchased.

(a) Purchases Allowed. – Without a permit, a person may purchase at one time:

- (1) Not more than 80 liters of malt beverages, except draft malt beverages in kegs for off-premises consumption. For purchase of a keg or kegs of malt beverages for off-premises consumption, the permit required by G.S. 18B-403.1(a) must first be obtained;
- (2) Any amount of draft malt beverages by a permittee in kegs for on-premise consumption;
- (3) Not more than 50 liters of unfortified wine;
- (4) Not more than eight liters of either fortified wine or spirituous liquor, or eight liters of the two combined.

(b) Unlawful Purchase. – Except as provided in ~~subsection (c)~~ subsections (c) and (d) of this section, and in Article 11, Article 11 of this Chapter, it shall be unlawful for any person to purchase, or for any person to sell, an amount of alcoholic beverages greater than that stated in subsection (a).

(c) Greater Amounts. – Amounts of alcoholic beverages greater than those listed in subdivisions (a)(3) and (a)(4) may be purchased with a purchase-transportation permit under G.S. 18B-403.

(d) Mixed Beverage Permittee Exception. – A mixed beverage permittee, or an employee of a mixed beverage permittee, may purchase and transport any amount of fortified wine or spirituous liquor for use by the mixed beverage permittee without obtaining a purchase-transportation permit under G.S. 18B-403. An employee of a local board may transport to a mixed beverage permittee any amount of fortified wine or spirituous liquor purchased by the mixed beverage permittee without obtaining a purchase-transportation permit under G.S. 18B-403. An independent contractor employed pursuant to G.S. 18B-701(a)(1), by either a mixed beverage permittee or a local board, shall not be considered an employee of a mixed beverage permittee or a local board for purposes of this subsection."

SECTION 19.(b) G.S. 18B-403(a) reads as rewritten:

"(a) Amounts. – With a purchase-transportation permit, a person may purchase and transport an amount of alcoholic beverages greater than the amount specified in G.S. 18B-303(a). A permit authorizes the holder to transport from the place of purchase to the destination within North Carolina indicated on the permit at one time the following amount of alcoholic beverages:

- (1) A maximum of 100 liters of unfortified ~~wine;~~ wine.
- (2) A maximum of 40 liters of either fortified wine or spirituous liquor, or 40 liters of the two ~~combined;~~ or combined.
- (3) The amount of fortified wine or spirituous liquors specified on the purchase-transportation permit for transportation to a mixed beverage

~~permittee~~ permittee by an independent contractor employed pursuant to G.S. 18B-701(a)(1)."

SECTION 19.(c) This section becomes effective July 1, 2019, and applies to fortified wine and spirituous liquor purchased on or after that date.

PART XX. ABC COMMISSION/QUARTERLY REPORT ON PROCESS FOR OBTAINING A CONTRACT FOR STATE WAREHOUSE SERVICES

SECTION 20.(a) Beginning October 15, 2019, and quarterly thereafter, the ABC Commission shall submit a written report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety detailing the progress made in bidding and selecting an independent contractor for the receipt, storage, and distribution of spirituous liquor at and from the State warehouse in accordance with G.S. 18B-204(a)(3). The report required under this section shall include all of the following:

- (1) The schedule for developing and issuing the Request for Proposal (RFP), including detailed explanations as to how the Commission is meeting the milestones identified on the schedule.
- (2) An identification of State agencies, departments, and other entities providing the Commission with technical assistance on RFP development and contract negotiations, including a detailed description of the assistance that is being provided.
- (3) A description of the Commission's consultation with local ABC boards, as that term is defined in G.S. 18B-101, to ensure the boards' concerns and expectations are addressed during the RFP development and contract negotiations.
- (4) A copy of the RFP when it is released for bid.
- (5) A copy of the final contract entered into pursuant to G.S. 18B-204(a)(3).
- (6) An implementation schedule for transitioning from the existing contract for services described in G.S. 18B-204(a)(3) to the new contract.

SECTION 20.(b) The reporting requirement set forth in subsection (a) of this section expires upon the earlier of the date of the award of the contract for services described in G.S. 18B-204(a)(3) or January 1, 2022.

PART XXI. ABC SPECIAL ORDERS/ALLOW PURCHASE OF INDIVIDUAL BOTTLES

SECTION 21.(a) G.S. 18B-800 is amended by adding a new subsection to read:

"(c1) Special Orders. – Through the process established by rule of the Commission for special orders of spirituous liquor that are on the special item list approved by the Commission, ABC stores shall allow the purchase of individual bottles of spirituous liquor. ABC stores may sell in store any bottles it receives from a special item case in excess of what was purchased by the requesting customer."

SECTION 21.(b) In order to facilitate the sale of any remainders of a special item case by a local ABC board, increase customer access to products, and allow local ABC boards to more effectively manage inventory, the ABC Commission shall develop and implement an Internet-based system to facilitate the sale and purchase of regular approved list items and special order list items of spirituous liquor by and among local ABC boards.

SECTION 21.(c) Subsection (a) of this section becomes effective July 1, 2019, and applies to special orders placed on or after that date. The remainder of this section is effective when it becomes law.

PART XXII. LOCAL ABC BOARDS/ALLOW DELIVERY FEE

SECTION 22.(a) G.S. 18B-701(a) reads as rewritten:

"(a) Powers. – A local board shall have authority ~~to~~ to do all of the following:

- (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC ~~stores;~~ stores. If a local board provides delivery of spirituous liquor to a mixed beverages permittee, the local board may use its employees or contract with an independent contractor and may charge a fee to the permittee. A mixed beverage permittee may contract with an independent contractor to provide delivery of spirituous liquor from an ABC board's store or warehouse to the permittee's premises.
- (2) Adopt rules for its ABC system, subject to the approval of the ~~Commission;~~ Commission.
- (3) Hire and fire employees for the ABC ~~system;~~ system.
- (4) Designate one employee as manager of the ABC system and determine his ~~responsibilities;~~ responsibilities.
- (5) Require bonds of employees as provided in the rules of the ~~Commission;~~ Commission.
- (6) Operate ABC stores as provided in Article 8;8.
- (7) Issue purchase-transportation permits as provided in Article 4;4.
- (8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5;5.
- (9) Borrow money as provided in ~~G.S. 18B-702;~~ G.S. 18B-702.
- (10) Buy and lease real and personal property, and receive property devised or given, as necessary for the operation of the ABC ~~system;~~ system.
- (11) Invest surplus funds as provided in ~~G.S. 18B-702;~~ G.S. 18B-702.
- (12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General ~~Statutes;~~ and Statutes.

...."

SECTION 22.(b) The ABC Commission shall adopt rules to implement this section, including the allowed fee for delivery and establishing requirements independent contractors must meet to provide deliveries authorized by this section.

SECTION 22.(c) Subsection (a) of this section becomes effective July 1, 2019, and applies to deliveries made on or after that date. The remainder of this section is effective when it becomes law.

PART XXIII. ADMINISTRATIVE PENALTY PROCESS/PED STUDY

SECTION 23.(a) Study. – The Joint Legislative Program Evaluation Oversight Committee shall revise the biennial 2019-2020 work plan for the Program Evaluation Division to include a study of the actions the Alcoholic Beverage Control Commission is authorized to take under G.S. 18B-104 for violations of Chapter 18B of the General Statutes. The study required under this subsection shall include an examination of (i) the proportionality of the punishment that may be imposed under G.S. 18B-104 in relation to the violation, (ii) the remainder of the law set forth in G.S. 18B-104 to identify any areas in which the law may be lacking, and (iii) the process utilized and punishment authorized by other alcoholic beverage control states for violations of their alcoholic beverage laws.

SECTION 23.(b) Cooperation. – Upon request, the Commission shall provide any necessary information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, to the Program Evaluation Division to complete the study required under subsection (a) of this section.

SECTION 23.(c) Report. – The Program Evaluation Division shall report its findings and recommendations from the study required under subsection (a) of this section to the Joint Legislative Program Evaluation Oversight Committee by March 15, 2020.

PART XXIV. SEVERABILITY CLAUSE

SECTION 24. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end, the provisions of this act are severable.

PART XXV. RULES

SECTION 25. The Alcoholic Beverage Control Commission shall amend its rules consistent with the provisions of this act. The Commission may adopt temporary rules to implement the requirements of this act. Any temporary rules adopted in accordance with this section shall remain in effect until permanent rules that replace the temporary rules become effective.

PART XXVI. EFFECTIVE DATE

SECTION 26. Sections 23 and 26 of this act are effective when this act becomes law. Except as otherwise provided, the remainder of this act becomes effective July 1, 2019.